

patentably distinct inventions appear in a single application, restriction requirement remains improper unless it can be shown that the search and examination of both groups would entail a "serious burden" (*see* MPEP § 803). In the present situation, no such showing has been made. Indeed, no arguments have been made explaining why it would impose an undue burden to examine Groups I-VI together.

Applicants submit that a search of the polynucleotide claims would provide useful information for the polypeptides and methods of using the same. This is because the evolution of one is tied to the existence of the other. Moreover, in many if not most publications, where a published polynucleotide is shown, the authors also include the polypeptides, and methods of using the same. Thus, the searches for polynucleotides polypeptides, methods of using would be overlapping.

Accordingly, as applied to Groups I-VI, the restriction requirement should be withdrawn.


Applicants further respectfully traverse the additional restriction requirement of Group I into multiple Sub-Groups. It is particularly pointed out that in response to Office action mailed 26 October 1998, Applicants relied on the Examiner's initial restriction requirement and submitted an appropriate claim set at a cost of well over three thousand dollars. The Examiner's subsequent restriction of 3 March 1999 precludes the examination of a majority of these claims. In view of Applicant's reliance on the Examiner's initial restriction, Applicant's hereby respectfully request that the Examiner include claims drawn to polypeptides of SEQ ID NO:56, a method of using said polypeptides, and a method of using the elected polynucleotides represented by claims 234-262 in the event the current restriction requirement is made final.

It is believed that the application is in condition for allowance. Early notice to that effect is solicited. If, in the opinion of the Examiner, a telephone conference would expedite prosecution, the undersigned respectfully requests that he be contacted.

Finally, if there are any fees due in connection with the filing of this paper, please charge the fees to our Deposit Account No. 08-3425. If a fee is required for an extension of time under 37 C.F.R. § 1.136 not accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account.

Respectfully submitted,

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